IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR.

...

S.B. CIVIL WRIT PETITION NO.5114/2003

Heera Lal Kumawat

Versus

State of Rajasthan and ors.

Date of Order : 9.5.2005

PRESENT

HON'BLE MR. JUSTICE R.P. VYAS

Mr.Arjun Purohit, for the petitioner
Ms. R.R. Kanwar, Dy. G.A.

...

The instant petition has been filed by the petitioner seeking a direction against the respondents to consider the candidature of the petitioner for the post of Physical Training Instructor Grade III after granting him 15 bonus marks for the sports certificate (Annex.P/3) and the impugned directions contained in clause (1) of Circular dated 16.8.2003 (Annex.5) issued by the Director, Secondary Education, Rajasthan, Bikaner (respondent no.2) directing that for appointment to the post of Physical Training Instructor (PTI) Gr.III, marks obtained in compulsory subjects of Vocational Course as well as marks obtained in optional subjects of Bridge Course would be

taken into consideration, be quashed and set aside and further, the respondents be directed to prepare a fresh selection list ignoring directions contained in clause (1) of Circular Annex.5 dated 16.8.2003 and if the petitioner comes in merit, he may be given appointment.

Heard the learned counsel for the parties.

During the course of arguments, the learned counsel for the petitioner submits that the controversy involved in the instant case is squarely covered by the decision of this Court in the case of Laxman Singh V/s State of Rajasthan and ors. (S.B.CWP No.1423/98 decided on 13.8.2002) reported in 2003(1) WLC (Raj.) 337, in so far as it relates to grant of bonus marks. The Division Bench of this Court vide judgment dtd.8.5.2003 delivered in D.B.Civil Special Appeal No.377/2003 (DRJ) has also affirmed the order dtd.13.8.2002 delivered in the case of Laxman Singh (supra). So far as controversy regarding Sr. Secondary (Vocational) is concerned, the same has been set at rest by the Hon'ble Supreme Court in the case of Sunita Sharma V/s State of Rajasthan reported in 2001 (10) SC 170 wherein the Hon'ble Supreme Court has held that Sr. Secondary (Vocational) is equivalent to Sr. Secondary

(Academic). Similar view has been taken by the Division Bench of this Court in D.B. Civil Special Appeal No. 123/2005 (State of Rajasthan V/s Ku. Uma Tailor) decided on 12.4.2005.

Since the controversy involved in the instant petition is squarely, covered by the decision of this Court in the case of Laxman Singh (supra) and State of Rajasthan V/s Ku. Uma Tailor as well as decision of Hon'ble Supreme Court in the case of Sunita Sharma and this fact has not been controverted by the learned counsel for the respondents, therefore, the present writ petition deserves to be allowed in terms of the observations made in the case of Laxman Singh (supra) and Ku. Uma Tailor (supra).

. Accordingly, the present writ petition is allowed in view of the observations made by this Court in the case of Laxman Singh (supra) and Ku. Uma Tailor (supra) and the respondents are directed to consider the candidature of the petitioner for appointment on the post of Physical Training Instructor Grade III after granting 15 bonus marks on the basis of Certificate (Annex.P/3) as well as after taking into consideration the marks obtained by the petitioner in

Sr. Secondary (Vocational) and in case after granting 15 bonus marks as well as after consideration of marks obtained by the petitioner in Sr. Secondary (Vocational), if any person who stood lower in merit than the petitioner, has been offerred appointment, then the case of the petitioner be also considered for appointment from the date the person less meritorious to him has been given appointment. On his appointment, the petitioner shall not be entitled for the emoluments of the post for the past, however, he will be entitled to claim seniority over the persons who were lower in merit, but have been offered appointment prior to him.

With the aforesaid observations and directions, the writ petition is allowed. There will be no order as to costs.

(R.P. VYAS)J.

Rm/-